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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 10/696,738
Applicant : Yager et al.
Filed : October 28, 2003
Title : Wavelength Tunable Surface Plasmon Resonance Sensor
Confirmation No. 6310

TC/A.U. : 2877
Examiner : Juan D. Valentin II
Docket No. : 128-02

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as Express Mail in an envelope addressed to: Mail Stop Amendment, Hon. Commissioner for Patents, PO Box 1450, Alexandria VA 22313-1450 EV 504 061 074 US

Date

12 Oct 04
Kay Speaker

INTERVIEW SUMMARY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

On October 6, 2004, Examiner Juan D. Valentin II participated in a telephone interview with Stephen B. Barone, representative for the Applicants relating to the pending Office Action of June 7, 2004. Examiner Juan D. Valentin II is sincerely thanked for providing this opportunity to discuss the pending Office Action in this application. Applicants provided the Examiner with a draft response prior to the telephone interview.

Pending rejections of the Office Action of June 7, 2004 were discussed. Proposed amendments to the claims were discussed along with arguments against the pending rejections under 35 U.S.C. §§ 102 & 103.

The scope of the disclosure in International Publication No. WO 01/69209 (Johansen *et al.*) was discussed. Applicants argued that Johansen *et al.* did not disclose SPR sensors and SPR imaging and sensing methods employing a

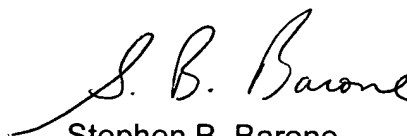
selectably adjustable wavelength selector for transmitting light having a continuously tunable distribution of wavelengths. Further, Applicants argued Johansen *et al.* did not disclose an optical geometry wherein an optical interference filter is itself rotated about a rotational axis orthogonal to an incident beam axis or reflected beam axis.

Applicants argued that the combination of Johansen *et al.* and U.S. Patent No. 5,339,155 (Partridge *et al.*), cited in support of the pending rejections under 35 U.S.C. § 103, was improper. In support of these arguments, Applicants asserted that there was no motivation to combine these references and a person of ordinary skill in the art at the time of the invention would not have a reasonable expectation of successfully combining the teachings of these references to arrive at the invention as claimed.

Proposed amendments to the claims for the purpose of expediting prosecution were discussed. Specifically, Applicants inquired into the patentability of claims reciting the limitation "wherein the distribution of transmitted wavelengths is continuously tunable by adjustment of the selectably adjustable wavelength selector." Applicants argued that support for the proposed amendments was in the specification and claims as originally filed with U.S. Patent and Trademark Office.

Objection to Figure 5 was discussed. Applicants proposed submission of a substitute schematic diagram showing a top plan view of an exemplary SPR sensor and complying with the appropriate regulations of the U.S. Patent and Trademark Office.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "S. B. Barone". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

Stephen B. Barone
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